

SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA

2010 JUL -2 AM 11:07

JEANNE HICKS, CLERK

BY: *D. Russ*

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9
10 **IN THE SUPERIOR COURT**

11 **STATE OF ARIZONA, COUNTY OF YAVAPAI**

12 STATE OF ARIZONA,

V1300CR201080049

13 Plaintiff,

MOTION TO STRIKE DEFENDANT'S
MOTION TO COMPEL DISCLOSURE/REQUEST
FOR SANCTIONS

14 vs.

15 JAMES ARTHUR RAY,

MOTION TO STRIKE DEFENDANT'S
MOTION TO CHANGE PLACE OF TRIAL

16 Defendant.

(The Honorable Warren Darrow)

17
18 The State of Arizona, by and through Sheila Polk, Yavapai County Attorney, respectfully
19 requests the Court to strike the Defendant's Motion to Compel Disclosure/Request for Sanctions
20 and Defendant's Motion to Change Place of Trial for the reason that the motions do not comply
21 with Rule 35.1, Arizona Rules of Criminal Procedure. Reasons in support of this motion are
22 more fully set forth below.
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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 Rule 35.1 of the Arizona Rules of Criminal Procedure, states:

3 **Rule 35.1 Motions: form, content and rights of reply**

4 **a.** Unless otherwise specified in these rules, all motions shall be typewritten,
5 double-spaced on 8.5 x 11 inch paper and shall contain a short, concise
6 statement of the precise nature of the relief requested, shall be accompanied by
7 a brief memorandum stating the specific factual grounds therefore and
8 indicating the precise legal points, statutes, and authorities relied upon, and shall
9 be served to all other parties.

10 **b.** Unless otherwise permitted by the court, a motion, including its supporting
11 memorandum, and the response, including its supporting memorandum, shall
12 not exceed 10 pages, exclusive of attachments. Unless otherwise permitted by
13 the court, a reply, including its supporting memorandum, shall not exceed 5
14 pages, exclusive of attachments.

15 The Comment to this rule emphasizes that the rules “are intended to produce precise, but
16 concise, pleadings in criminal cases.”

17 On June 29, 2010, defense counsel filed two motions – a Motion to Compel Disclosure/
18 Request for Sanctions and a Motion to Change Place of Trial. Each motion is sixteen pages in
19 length. The two Motions are accompanied by a “Declaration of Truc T. Do in Support of
20 Defendant’s James Arthur Ray’s” motions. This Declaration is seven pages in length. This
21 “Declaration” sets forth factual allegations upon which the two Motions are based, constitutes
22 “the specific factual grounds therefore,” and must be counted in the ten-page limit. *Rule 35.1(a),*
23 *Rules of Criminal Procedure.* Each Motion, together with the “Declaration,” is twenty-one pages
24 in length, far in excess of the ten pages allowed by the rule. Both Motions are clearly in non-
25 compliance with Rule 35.1(a), Arizona Rules of Criminal Procedure, and do not conform to the
26 “precise, but concise” standard expected in Arizona courts of law.

1 The State therefore respectfully requests this Court to strike Defendant's Motion to
2 Compel Disclosure/Request for Sanctions and Defendant's Motion to Change Place of Trial.

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4 RESPECTFULLY submitted this 2nd day of July, 2010.

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6
7 By Sheila S Polk
8 SHEILA SULLIVAN POLK
9 YAVAPAI COUNTY ATTORNEY

10
11 **COPIES** of the foregoing emailed this
12 1st day of July, 2010:

13 Hon. Warren Darrow
14 Dtroxell@courts.az.gov

15 Thomas Kelly
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17 Truc Do
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19 By: Lenny Abram

COPIES of the foregoing delivered this
2nd day of July, 2010, to

Thomas Kelly
Via courthouse mailbox

Truc Do
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Via U.S. Mail

By: Lenny Abram